

## Remarks

Reconsideration of the present application, as amended, is respectfully requested.

Claim 1 has been amended to address the 35 U.S.C. §112, second paragraph, issue raised by the Examiner.

Substantively, of previously pending claims 1-26, claims 1-6, 8-13 and 15-22 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application No. 2003/0074449 to R. Smith *et al.* (Smith) in view of U.S. Patent Application No. 2002/0004842 to K. Ghose *et al.* (Ghose). Claims 7, 14, 23, 24, and 25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of Smith in view of Ghose as applied to claims 1 and 8 above, and U.S. Patent No. 5,745,685 to M. Kirchner *et al.* (Kirchner).

Accordingly, claims 1, 6, 8, 13, 17, 22, 24 and 25 have been amended; and claims 5, 7, 12, 14, 21 and 23 have been canceled. Specifically, claim 1 has been amended to include the limitations of claims 5 and 7; claim 8 the limitations of claims 12 and 14; and claim 17 the limitations of claims 21 and 23. Claims 6, 13 and 22 were amended to change the dependencies necessitated by the canceled claims.

The applicants thank the Examiner for specifically identifying out the reference portions being relied upon to reject the applicants' claims.

With respect to the rejection of claims 1-6, 8-13 and 15-22, the applicants respectfully disagree and address their arguments with respect to independent claims 1, 8 and 17. First, the applicants point out that claim 1 has been amended to include in some way the limitations of dependent claims 5 and 7, claim 8 the limitations of dependent claims 12 and 14, and claim 17 the limitations of claims 21 and 23. These limitations were purportedly found in the cited Kirchner patent in the rejection of previously pending claims 7, 14, 23, 24, and 25. In rationalizing this rejection, the Examiner stated:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add a timer, such as that suggested Kirchner, to the transmitter port of Smith in view of Ghose in order to provide a reliable and efficient way of confirming that a message sent by the transmitter to the receiver has been received and a way of automatically initiate resending the message as needed (see Kirchner column 2, lines 11-15) (applicants' underlining).

The applicants' claimed invention is different. For example, claim 1 recites, "...transmitting more GFP-encapsulated client data frames responsive to said determining that said identification tag has not been received within said predetermined amount of time...(applicants' underlining)." That is, the unconfirmed client data frame is not resent when the identification tag has not been received within the predetermined amount of time, but rather the transmission process continues with the sending of more client data frames. See the full paragraph on page 12 and the following paragraph continuing on to page 13, of the specification.

Secondly, with respect to claim 1, the Examiner identified the step of "sending an identification tag..." with the IEEE standard 802.1Q. "**According to the IEEE standard 802.1Q Ethernet frames are tagged (claimed** sending an identification tag with at least an initial one of said GFP-encapsulated client data frame) (Examiner's bold font." As the applicants understand the standard, the tags of IEEE 802.1Q are used to define a virtual LAN within a network. To make explicit what was implicit, claim 1 has been amended so that the sending step has the "identification tag for said local transport interface." The IEEE 802.1Q tags distinguish the plurality of nodes of a virtual LAN, not a single node. Hence claim 1 is further distinguishable over the cited IEEE 802.1Q.

Finally, all the independent claims (including claims 24 and 25) recite "GFP-encapsulated client data frames" and none of the cited references used in rejecting the claims appear to describe this limitation.

Independent claims 24 and 25 have also been amended to add the limitations similar to that of dependent claims 5 and 7, 12 and 14, and 21 and 23. Hence the same arguments made above apply. While the cited Kirchner patent teaches resending the unconfirmed message after a time out, the applicants' claimed invention operates otherwise. Claim 24 recites, "...transmitting more GFP-encapsulated client data frames responsive to a determination that an identification tag has not been received within said time limit..." The unconfirmed and timed out message is not resent under the claimed invention. Independent claim 25 has similar language.

Claims 2-4, 6, 9-11, 13, 15-20, 22 and 26 should all be allowable for at least being dependent upon their respective base claims.

Therefore, in view of the amendments above and the remarks directed thereto, the applicants respectfully request that claims 1-4, 6, 8-11, 13, 15-20, 22, and 24-26 be allowed and the case be passed to issue. If a telephone conference would in any way expedite the prosecution of the application, the Examiner is asked to call the undersigned at (408) 868-4088.

Respectfully submitted,  
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